

IN THE UNITED STATES DISTRICT COURT – EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION

GARY HENSON,  
Special Personal Representative of the  
Estate of SANDRA HENSON, Deceased;

PLAINTIFF

VS.

Case No.: 4:21-cv-294-DPM

ROSS STORES, INC.;  
AND JOHN DOE NOS. 1-3

DEFENDANTS

**COMPLAINT**

COMES NOW Plaintiff Gary Henson, Special Personal Representative of the Estate of Sandra Henson, by and through his attorneys, McDaniel Law Firm, PLC, and for his Complaint against Defendant Ross Stores, Inc. (and John Doe Nos. 1-3), states as follows:

**JURISDICTION AND VENUE**

1. That Plaintiff Gary Henson, a resident of Wynne, Cross County, Arkansas, is the duly appointed Special Personal Representative of the Estate of Sandra Henson, Deceased, having been so appointed by the Probate Court of Cross County on or about January 21, 2021. By virtue of this appointment, he has authority to act on behalf of the Estate of Sandra Henson and all beneficiaries thereof.

2. That at all times pertinent hereto, Decedent Sandra Henson was a resident of Wynne, Cross County, Arkansas.

3. That Decedent Sandra Henson died on or about December 10, 2020 due to complications of the COVID-19 virus. Plaintiff does not presently claim Sandra Henson's incident related injuries caused or contributed to her death.

McDANIEL  
LAW FIRM, PLC  
400 SOUTH MAIN  
JONESBORO, AR 72401  
(870) 336-4747  
FAX (870) 932-0919

This case assigned to District Judge Marshall  
and to Magistrate Judge Volpe

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

APR 13 2021

JAMES W. McCORMACK, CLERK  
By: [Signature]  
DEP CLERK

4. That at all times pertinent hereto, Defendant Ross Stores, Inc. (hereinafter referred to as “Ross Stores”) is/was a foreign for-profit corporation doing business in the State of Arkansas.

5. That Defendant Ross Stores’ headquarters and principal place of business is located in Dublin, California.

6. That The Corporation Company, 417 Spring Street, Little Rock, AR, 72201, is the registered agent for service of process for Defendant Ross Stores.

7. That at the time of the events referred to herein, Ross Stores did business as “Ross Dress For Less” at the location of the subject incident, 4124 East McCain Boulevard, North Little Rock, Arkansas 72117.

8. That at the time of the events referred to herein, Ross Stores was the owner, operator, and/or manager of the subject “Ross Dress For Less” store, 4124 East McCain Boulevard, North Little Rock, Arkansas 72117, and was responsible for the day-to-day management and supervision of its employees.

9. That, in addition and/or in the alternative, the name of any unknown tortfeasor, individual person or entity, shall be designated by the pseudo-name John Doe. Thus, in this case, John Doe 1, John Doe 2, and John Doe 3, in the alternative, are the names of any unknown defendants and are the true names of any unknown person(s) or entity(ies) who own, lease, operate, do business as, have an interest in, and/or direct, manage, or supervise the employees of the subject “Ross Dress For Less” store located in North Little Rock, Arkansas (at the time of the incident and/or presently).

10. That upon determining the identity of any currently unknown tortfeasor, person or entity, Plaintiffs will amend the Complaint by substituting the real name for the pseudo-name.

11. That pursuant to A.C.A. §16-56-125, Plaintiff has attached the Affidavit of Plaintiffs' Attorneys affirming the identity of a tortfeasor(s) is unknown, as "**Exhibit A.**"

12. That this Court has subject matter jurisdiction over this cause as there is complete diversity of citizenship and the amount in controversy exceeds the minimum amount for federal diversity citizenship, i.e., greater than \$75,000. 28 U.S.C.A. §1332(a).

13. That this Court has personal jurisdiction over the parties hereto.

14. That this Court is the proper venue for this action as the subject incident occurred in this District. 28 U.S.C.A. §1391(b).

15. That Plaintiff Gary Henson, Special Personal Representative of the Estate of Sandra Henson, Deceased, brings this action pursuant to matters including, but not limited to, the Arkansas Survival Statute, A.C.A. § 16-62-101.

### **FACTS**

16. That on or about July 14, 2020, at approximately 5:15 p.m., Sandra Henson was shopping at the subject "Ross Dress For Less" store. While shopping, Mrs. Henson tripped and fell over a low display rack protruding from an aisle end-cap and into the walkway.

17. That the display rack that tripped Mrs. Henson was empty and serving no useful purpose.

18. That the empty display rack that tripped Mrs. Henson presented a hazard which was known to or should have been known to Defendant Ross Stores.

19. That Defendant Ross Stores was negligent in causing Mrs. Henson's fall in particulars, including, but not limited to, the following:

(a) Failure to maintain the premises in a reasonably safe condition for patrons;

- (b) Negligently failing to remove (or sufficiently stock) the empty display rack from areas where customers, such as Sandra Henson, would reasonably be expected to walk;
- (c) Negligently failing to train and/or supervise its employees concerning identifying, maintaining, and/or removing tripping hazards such as the subject display rack.
- (d) Negligently failing to use ordinary care under the circumstances then and there existing.

20. That Defendant Ross Stores' negligence was the proximate cause of Sandra Henson's injuries and those damages referred to herein.

21. That Mrs. Henson was free of any negligence or comparative fault in the subject incident.

22. That as a proximate result of the Defendant's negligence, Mrs. Henson sustained serious and permanent injuries to areas of her body, including, but not limited to, her face, her eyes, her sinuses, and her legs, for which she incurred medical expenses through the date of her death; endured pain, suffering, mental anguish, and loss of enjoyment of life through the date of her death; and suffered disfigurement as a result of her injuries; and, for all of which, Plaintiff Gary Henson, Special Personal Representative of the Estate of Sandra Henson, Deceased, should have and recover judgment from and against Defendant Ross Stores (and/or John Doe Nos. 1-3) in an amount in excess of the amount required for federal court diversity jurisdiction.

23. That Plaintiff reserves the right to amend and plead further in this case.

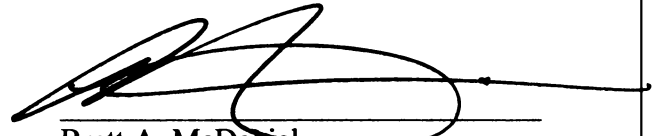
24. That Plaintiff requests a trial by jury of twelve (12) persons.

WHEREFORE, Plaintiff prays he have and recover judgment from and against Defendant Ross Stores, Inc. (and Defendant John Doe Nos. 1-3) for all of his damages in an amount in

excess of the amount required for federal court diversity jurisdiction, for his costs, and for all other relief to which Plaintiff may be entitled.

RESPECTFULLY SUBMITTED this 9 day of April, 2021.

McDANIEL LAW FIRM, PLC  
Attorneys at Law  
400 South Main Street  
Jonesboro, Arkansas 72401  
(870) 336-4747

A handwritten signature in black ink, appearing to read "Brett A. McDaniel", is written over a horizontal line.

Brett A. McDaniel  
Arkansas Bar No. 2009008